



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Central Regional Office • 627 Main Street, Worcester MA 01608 • 508-792-7650

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

David Chambers, Safety Director
Rex Lumber Company
840 Main Street
Acton, MA 01720

Re: **NOTICE OF NONCOMPLIANCE: NON-CE-13-9031-27**

Noncompliance with M.G.L. Chapter 21C and 111, and 310 CMR 30.000 and 310 CMR 7.00

At: 840 Main Street
Acton, MA 01720

Dear Mr. Chambers:

Department of Environmental Protection ("MassDEP") personnel have observed or determined that on August 1, 2013 activity occurred at Rex Lumber Company located at 840 Main Street in Acton, Massachusetts, in noncompliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by MassDEP.

Enclosed please find a Notice of Noncompliance, an important legal document describing the activities that are in noncompliance, and an Inspection Report.

Additionally, this letter contains general information on potential options to reduce the quantity, toxicity and/or global warming potential of materials used by your facility, which if implemented, may assist in correcting the violations described in the enclosed document(s).

OPPORTUNITIES FOR REDUCING THE FACILITY'S ENVIRONMENTAL IMPACT

By modifying the facility's processes and/or waste generation practices, you may be able to reduce or eliminate the environmental regulatory requirements and fees that apply to this facility, including requirements to:

- notify MassDEP;
- obtain MassDEP permits or other approvals;
- manage wastes in specific ways; and
- file reports on your operations with the agency.

Potential modifications may include:

- reducing the quantity and/or toxicity and/or global warming potential of waste that requires disposal;
- eliminating or reducing the use of toxic or greenhouse gas emitting chemicals by the facility; and
- increasing energy efficiency.

In addition, these modifications may improve your product quality and/or process efficiency, and save money.

Tracking the facility's hazardous substances use and greenhouse gas emissions and reviewing that data periodically may lead to the identification of additional opportunities to reduce the quantity and toxicity of materials used, of greenhouse gases emitted, and of hazardous wastes generated.

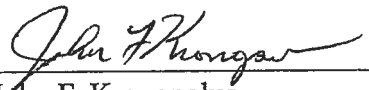
For information on reducing hazardous chemical use, greenhouse gas emissions, and/or waste generated, you may contact:

- The Office of Technical Assistance (617-626-1060) for free, CONFIDENTIAL technical assistance including on-site assessments, financial evaluations, the handbook "The Practical Guide to Toxics Use Reduction", and other resources.
- The Toxics Use Reduction Institute (978-934-3275) for courses for certified "Toxics Use Reduction Planners".
- MassDEP's Toxics Use Reduction Program (617-292-5982) for guidance material on the Toxics Use Reduction Act requirements.
- The MA Department of Energy Resources, (617-626-7300) for further information on energy efficiency programs.

If you have any questions regarding this matter, please contact Michelle Delemarre of this office at (508) 767-2777.

Sincerely,

Date: 10/18/13


John F. Kronopolus
Acting Deputy Regional Director,
Bureau of Waste Prevention

Enclosure

cc: ✓ Acton Board of Health
Scott Fortier, MA Office of Technical Assistance
Electronic Archive, Regional Enforcement Coordinator

NOTICE OF NONCOMPLIANCE

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Based on the Department of Environmental Protection's ("MassDEP") investigation on August 1, 2013, noncompliance occurred or was observed at Rex Lumber Company located at 840 Main Street in Acton, Massachusetts, in violation of one or more laws, regulations, orders, licenses, permits or approvals enforced by MassDEP.

This Notice of Noncompliance describes (1) the requirement violated, (2) the date and place on which MassDEP asserts the requirement was violated, (3) either the specific actions which must be taken in order to return to compliance or direction to submit a written proposal describing how and when you plan to return to compliance, and (4) the deadline for taking such actions or submitting such a proposal.

If the required actions are not completed by the deadlines specified below, an administrative penalty may be assessed for every day after the date of receipt of this Notice that the noncompliance occurs or continues. MassDEP reserves its rights to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative action, including administrative penalties imposed by MassDEP.

NAME OF ENTITY IN NONCOMPLIANCE:

Rex Lumber Company, Facility ID # 130047
(hereinafter referred to as the "Company")

LOCATION WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

840 Main Street
Acton, MA 01720

DATE WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

August 1, 2013

DESCRIPTION OF NONCOMPLIANCE:

The Department's investigation shows that the Company had the following violations:

A. Hazardous Waste Management:

1. Failure to notify MassDEP of the facility's activity involving the generation and accumulation of waste oil, in violation of 310 CMR 30.253(10)(a). Specifically, the Company was registered as a Very Small Quantity Generator of Hazardous Waste but didn't register as a Very Small Quantity Generator of Waste Oil for the generation of a waste parts washing solution that was characterized as a Waste Oil. The regulation 310 CMR 30.253(10)(a) states:

"Persons who generate and accumulate waste oil or off-specification used oil fuel (specification used oil fuel is subject to 310 CMR 30.222) in quantities entitling them to the status of either a Small Quantity Generator pursuant to 310 CMR 30.351 or a Very Small Quantity Generator pursuant to 310 CMR 30.353, and who generate and accumulate all other regulated recyclable materials and all other hazardous wastes in quantities entitling them to the status of a Very Small Quantity Generator pursuant to 310 CMR 30.353 need not handle such waste oil or off-specification used oil in compliance with 310 CMR 30.253(9), and instead shall cause such waste oil or off-specification used oil fuel to be handled in compliance with the following requirements:

(a) Generators subject to 310 CMR 30.253(10) shall register with the Department by notifying the Department in writing of their activity involving waste oil, off-specification used oil fuel, other regulated recyclable material, and other hazardous waste. Except as specifically provided elsewhere in 310 CMR 30.253(10), such registration shall be in compliance with requirements set forth or referred to in 310 CMR 30.353(5) (requirements governing Very Small Quantity Generators of hazardous waste)."

B. Air Pollution Control:

2. Failure to operate a wood fired furnace rated at 830,000 BTU per hour in compliance with MassDEP Plan Approval Number CM-83-C-003 dated August 4, 1983, in violation of 310 CMR 7.02(3)(f). Specifically, the smoke density indicator and recorder system and related equipment was not operated continuously and maintained in accurate condition. The regulation, 310 CMR 7.02(3)(f), states:

"Compliance with Plan Approvals. Other than as provided in 310 CMR 7.02(2)(f), no person shall operate a facility approved under 310 CMR 7.02 except in compliance with any plan approval issued to the facility. A plan approval does not reduce or negate the responsibility of the facility owner or operator to comply with any other applicable requirements of the Department."

3. Failure to operate a wood fired (saw dust) boiler rated at 9.25 million BTU per hour in compliance with MassDEP Plan Approval Number C-B-89-014 dated September 15, 1989, in violation of 310 CMR 7.02(3)(f). Specifically, an opacity indicator and recorder was not installed to continuously monitor the opacity of the boiler exhaust. The regulation, 310 CMR 7.02(3)(f), states:

"Compliance with Plan Approvals. Other than as provided in 310 CMR 7.02(2)(f), no person shall operate a facility approved under 310 CMR 7.02 except in compliance with any plan approval issued to the facility. A plan approval does not reduce or negate the responsibility of the facility owner or operator to comply with any other applicable requirements of the Department."

ACTION(S) TO BE TAKEN AND THE DEADLINE FOR TAKING SUCH ACTION(S):

The following action(s) to be taken have individual deadlines associated with them. The Company shall take the necessary steps to correct the violations within the specified deadlines as noted and shall return to compliance with the requirements described below. MassDEP's regulations at 310 CMR 5.09 presume that you receive this Notice of Noncompliance, if delivered by regular mail, three business days after it was issued (i.e., the date of the cover letter).

A. Hazardous Waste Management:

1. On August 6, 2013, the Company properly registered its Very Small Quantity Generator of Waste Oil status with MassDEP, in compliance with 310 CMR 30.253(10)(a). The Company will maintain its proper Hazardous Waste Generator Identification Number of MAD007997927.

B. Air Pollution Control:

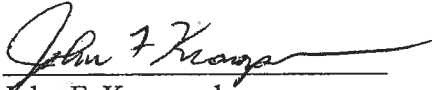
2. Within sixty (60) calendar days from the date of receipt of this Notice, operate the wood fired furnace rated at 830,000 BTU per hour in compliance with MassDEP Plan Approval Number CM-83-C-003 dated August 4, 1983, in compliance with 310 CMR 7.02(3)(f). Or, submit to MassDEP for review a standard operating procedure to maintain compliance with the MassDEP Visible Emission Regulation, 310 CMR 7.06(1), in lieu of operating the smoke density indicator and recorder system and related equipment, when the wood fired furnace is operating.

3. Within sixty (60) calendar days from the date of receipt of this Notice, operate the wood fired (saw dust) boiler rated at 9.25 million BTU per hour in compliance with MassDEP Plan Approval Number C-B-89-014 dated September 15, 1989, in compliance with 310 CMR 7.02(3)(f). Specifically, install and operate an opacity indicator and recorder to continuously monitor the opacity of the boiler exhaust.

4. Within sixty (60) calendar days from the date of receipt of this Notice, the Company shall submit to MassDEP a written description of each of the actions taken to correct the violations noted above as well as a status report of any corrective actions planned or being taken to achieve or maintain compliance. Any and all supporting documentation shall be included with the response to MassDEP.

Please address your reply to this Notice of Noncompliance to Michelle Delemarre at this office.

Date: 10/18/13


John F. Kronopolus
Acting Deputy Regional Director,
Bureau of Waste Prevention